HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is not approved for reporting.)

(Chapter VIII Rule 32 (2) (b)

Description of the case

W.P. No. 437/2003 (S/S)
Chandra Kishor Mahra and other.

Vs.
State of Uttaranchal and others.

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 13.05.2004

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 437 of 2003 (SS)

Chandra Kishor Mahra & 13 others ……..Petitioners

Versus

State of Uttaranchal & others …….Respondents

Sri K.N. Joshi, Advocate for the petitioner
Standing Counsel for the respondents no. 1 & 2.
Sri H.M. Raturi, Advocate for respondent no. 3.

Dated: 13.5.2004

Hon'ble Rajesh Tandon J.

Heard the learned counsel for the parties.

By the present writ petition the petitioners have prayed for the issue of a writ in the nature of mandamus directing the respondents to make the payment of salary to the petitioners in the pay scale of 1100-1710 (revised 3600-5500) with admissible allowances.

The petitioners have also prayed for a writ of mandamus directing the respondents to grant the regular pay scale for the post of Assistant Teacher along with the seniority w.e.f their dated of initial appointment along with all consequential benefits.

Briefly state the facts giving rise to the present writ petition are that the petitioners are the Assistant Teachers posted in various primary schools in District Champawat. The petitioners are holding C.P.Ed. Certificate/diploma and they were appointed by the Basic Shiksha Adhikari Pithoragarh on the consolidated salary of Rs. 850/-

per month. The petitioners have submitted that pursuant to the letter dated 1.1.1993 issued by the Director of Education Basic Shiksha Parishad, U.P. some other persons were appointed who are being paid regular pay scale of 1100-1710 whereas the petitioners are being paid a consolidated salary of Rs. 850/- per month. The petitioners have claimed regular pay scale from the date of their appointment.

The respondents have filed counter affidavit and have submitted that the petitioners are holding the C.P.Ed. Certificates, obtained by them from the Amrawati Maharastra, which was not a recognized institution, but in pursuance of the order of Allahabad High Court the petitioners were given appointment on a fixed salary of Rs. 850/- per month. It has also been submitted in the counter affidavit that the person who have C.P. Ed certificate from the recognized institutions were being paid regular pay scale. It has been submitted that the qualification for appointment of Assistant Teachers of Junior Basic School is prescribed under Rule 8 of U.P. Basic Education (Teacher) Service Rule 1981. The petitioners were appointed as untrained teachers and till the completion of departmental B.T.C. training they are not entitled to get regular pay scale.

The learned counsel for the petitioners placed reliance on the judgment of Hon'ble Mr. Justice M.M. Ghildiyal in W.P. No. 3615 (SS) of 2001 (Deepak Chandra vs. Basic Siksha Adhikari, Pithoragarh and WP. 1243 (SS) of 2001 Dinesh Singh Rawat and others vs. State of U.P. & others and have submitted that the facts of the present writ

petition are squarely covered by the judgment pronounced in the above writ petitions.

In the aforesaid writ petitions his Lordship Hon'ble Mr. Justice M.M. Ghildiyal was pleased to pass the following order:

"Since the petitioners were appointed in pursuance to the advertisement issued by the respondents in the year 1993 and some of the persons who were appointed in pursuance to the same advertisement have been paid regular pay scale from their initial appointment, the petitioners are also entitled to get some pay scale.

For the reasons stated above the writ petitions are allowed. The respondents are directed to pay difference of pay to the petitioners within a period of six weeks from the date of production of certified copy of this order. No order as to costs."

The present writ petition is squarely covered by the judgment of his Lordship Hon'ble Mr. Justice M.M. Ghildiyal in W.P. No. 3615 of 2001(SS) and W.P. No. 1243 of 2001 (SS) conditions. The respondents are directed to pay the difference of pay along with consequential benefits to the petitioners with six weeks after the receipt of the certified copy of this order.

The writ petition is accordingly disposed of. There will be no order as to costs.

Sd/-

13.05.2004

*Dhyani